

REMARKS

The issues outstanding the Final Rejection mailed August 23, 2007, are the rejections under 35 U.S.C. §112 and §103, and the objection under 37 CFR §1.75(c). Reconsideration of these issues is respectfully requested, in view of the following discussion.

Rejections under 35 U.S.C. §112 and Objections to Claims

Claims 1, 4 and 7-17 have been rejected under 35 U.S.C. §112, first paragraph. It is noted, at page 2 of the Office Action, that the claims recite that the at least partially polar carrier material is an at least partially polar "comonomer." In fact, this is a typographical error, in that "copolymer" is meant, as clearly supported in the specification, for example, at page 3, lines 14-16. This correction obviates the rejections under the first paragraph of §112, and withdrawal thereof is respectfully requested.

Claim 7-8 and 11-15 have also been rejected under 35 U.S.C. §112, second paragraph. The correction of claim 1 to recite a copolymer provides antecedent basis for the recitation of "the copolymer" in these claims, and withdrawal of this rejection is also respectfully requested.

With respect to claims 11-15, it is argued at page 2 of the Office Action that these claims recite the partially polar carrier material is a partially polar comonomer. In fact, it is claim 12 which makes this recitation. Since claim 12 is superfluous, it has been canceled. Withdrawal of this rejection is therefore also respectfully requested.

Finally, with respect to the objection to claims 11-15 as failing to further limit the previous claims, it is submitted that these claims do, in fact, limit claim 1 appropriately. For example, as claim 11 is a process for preparation of the material according to claim 1. These claims have been clarified in order to refer to "the" at least partially polar carrier material, to make clear that they refer back to claim 1. Withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. §103

Item 6 at page 3 of the Office Action purports to be a rejection of claims 1, 4 and 7-17 under 35 U.S.C. §102(b). However, paragraph 5 of the Office Action in fact quotes 35 U.S.C. §103, and the rejection itself, as set forth at page 4 of the Office Action, is clearly one

of obviousness, in that it combines multiple references, and argues that it would have been "obvious to one ordinary skill in the art" to arrive at the invention from these references. Thus, it is clear that the rejection is one under 35 U.S.C. §103, and it is being treated as such.

Claims 1, 4 and 7-17 are rejected under 35 U.S.C. §103 over Canadian Patent 2,037,603 (Findley) taken with U.S. Patent 6,451,102 (Hilder). Findley discloses a *pellet* for use in plastic preparation, comprising a pigment and a carrier. The pellets are produced when pigment and carrier in powder form are placed in a high-intensity bowl mixer, and granules of 10-50 microns are produced, which granules are then run in a standard pellet mill until pellets are produced. The pellets are relatively large, see, for example, page 6, lines 18-22 and page 11, lines 21-24. It is thus respectfully submitted that these pellets do *not* "fall within the scope of the powdered form of the instant claim 17." (Claim 17 is now incorporated in Claim 1) That the pellets are different from a free flowing powder is evident from the problem Findley purports to solve, i.e., commercial pigment granules being too small to mix well with commercial resin pellets because they had a more or less spherical shape with a diameter of 30-50 microns. See page 3, lines 4-10.

It is moreover important to note that, while Findley uses the term "carrier," it is evident that the carrier in Findley is the base material of the pellet, which contains pigment. While the Office Action argues that it would be obvious to use flake-form effect pigments in view of their disclosure in Hilder, sheathed in polar waxes or non-polar copolymers, such sheathing is not equivalent to the use of wax as a pellet producing material in Findley. Thus, combining Findley and Hilder's disclosures, one of ordinary skill in the art would produce color concentrated pellets comprising an at least partially polar material as the pellet, and pearlescent pigments sheathed with a polar wax or non-polar copolymer (As noted in applicants' prior reply, Hilder fails to suggest polar comonomers.) However, one of ordinary skill in the art would not produce a material which is a free-flowing powder. Withdrawal of this rejection under 35 U.S.C. §103 is therefore respectfully requested.

The claims in the application are submitted to be in condition for allowance. However, if the examiner has any questions or comments, he is cordially invited to telephone the undersigned at the number below.

No fee is believed due with this reply, however, the Commissioner is hereby authorized to charge any additional fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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